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Attorney for Steve's Auto Sales, Inc.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

IN RE:	)	Case No. 06-60855
	)	
INCREDIBLE AUTO SALES, LLC	)	<b>AMENDED OBJECTION TO DEBTOR'S</b>
	)	<b>EMERGENCY MOTION FOR</b>
Debtor.	)	<b>USE OF CASH COLLATERAL</b>
	)	

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**NOTICE OF HEARING**

**Date:** November 6, 2006  
**Time:** 2:00 o'clock p.m.  
**Location:** 5<sup>th</sup> Floor Courtroom, Federal Building,  
316 North 26<sup>th</sup>  
Billings, Montana

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COMES NOW STEVE'S AUTO SALES, INC. by and through its attorney James A. Patten, who hereby objects to the Debtor's emergency motion for use of cash collateral upon the following grounds:

1. Debtor seeks an emergency order allowing the use of cash collateral. Part of the justification for the motion is the assertion that Hyundai Motor Finance has a lien, among other things, on all used vehicles. Also asserted is that the total value of the collateral securing Hyundai Motor Finance substantially exceeds the debt owed to Hyundai Motor Finance thus justifying the

use of cash collateral. Attached to the motion is, among other things, a list of the used car inventory. See Exhibit B to Debtor's Emergency Motion for Use of Cash Collateral.

2. Steve's Auto Sale, Inc. was a party to a prepetition transaction with Incredible Auto Sales and with Auto Auction Associates of Montana. Through the transaction, fourteen vehicles owned by Steve's Auto Sales were to be sold by or through Auto Auction Associates of Montana to Incredible Auto Sales. Incredible Auto Sales paid for seven of the vehicles but its check was returned marked "NSF" and it did not pay for nine of the vehicles. Title to the nine vehicles for which no payment was made is in the name of Steve's Auto Sales although possession of all but two of the vehicles is with Incredible Auto Sales. Auto Auction Associates of Montana made a demand and has filed a complaint for reclamation of all such vehicles. A question exists as to whether Auto Auction Associates of Montana is the seller within the meaning of 11 U.S.C. §546(c)(1); if Auto Auction Associates of Montana is not the seller, then Steve's Auto Sales, Inc. is the seller. Steve's Auto Sales, Inc. has made a demand for reclamation of the vehicles which duplicates in part the demand made by Auto Auction Associates.

3. Auto Auction Associates of Montana has entered into a Stipulation with Incredible Auto Sales whereby the vehicles subject to the reclamation claim of Auto Auction Associates will be segregated and will not be encumbered, sold, or transferred until further order of the Court. Attached as Exhibit A and Exhibit A-1 to the Stipulation are lists of vehicles subject to the stay. These lists include those vehicles claimed by Steve's Auto Sales.

4. The emergency motion for cash collateral, specifically the used car inventory, includes the following vehicles which are subject to the Stipulation and which Steve's Auto Sales may have an interest:

<b>YEAR</b>	<b>MAKE/MODEL</b>	<b>VIN NO.</b>
2004	Chevrolet Cavalier	235271
2005	Chrysler Town & County	589847
2007	Dodge Caliber	530095
2003	Dodge Stratus	620717
2005	KIA Spectra	124532
2002	Mercury Sable	614160
2006	Pontiac G6	176395
2005	Suzuki Forenza	174188
2004	Chevrolet Blazer	163169
2005	Chevrolet Classic	177176
2003	Chevrolet Malibu	699843
2005	Chrysler Sebring	568587
2004	Ford Ranger	A07225
2005	Pontiac Montana Van	121917

5. The motion for use of cash collateral would permit the sale of the vehicles subject to the stipulation otherwise enjoining a sale. Steve's Auto Sales supports restrictions on the encumbrance, sale or transfer of the vehicles pending further order of this Court and would urge that the cash collateral motion not constitute a "further order of the Court" within the meaning of paragraph 5(a) of the Stipulation.

6. The vehicles in the possession of Incredible Kia as identified above are subject to liens granted by Steve's Auto Sales Inc. to third parties. Because the transaction by which Incredible Kia obtained possession of the vehicles was not by a buyer in the ordinary course of business and in good faith, the vehicles remain subject to the liens.

7. Steve's Auto Sales, Inc. objects to the sale or any disposition of the vehicles described in paragraph 4 above until the reclamation claim of Auto Auction Associates of Montana and/or Steve's Auto Sales, Inc. is finally resolved by this Court.

WHEREFORE the foregoing reasons, Steve's Auto Sales, Inc. respectfully objects to the Motion for use of cash collateral.

DATED this 1<sup>st</sup> day of November, 2006.

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By: /s/ J.A. Patten  
**JAMES A. PATTEN**  
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